

Flathead County
Planning & Zoning
1035 1st Ave W, Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210



PETITION FOR ZONING AMENDMENT

Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.

FEE ATTACHED \$ 4,715.00 + 75.00

APPLICANT/OWNER:

1. Name: Tronstad-Church LLC; Attn: Don Dammel Phone: (406) 270-8529
2. Mail Address: P.O. Box 365
3. City/State/Zip: Kalispell, MT 59901
- 4 Interest in property (if map amendment): Owner

Check which applies:



Map Amendment



Text Amendment:

TECHNICAL/PROFESSIONAL PARTICIPANTS:

1. Name: Sands Surveying Inc. Phone: (406) 755-6481
2. Mailing Address: 2 Village Loop
3. City, State, Zip: Kalispell, MT 59901
4. Email: eric@sandssurveying.com

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:

- A. What is the proposed zoning text/map amendment? N/A

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:

- A. Address of the property: Tronstad Road, Kalispell
- B. Legal Description: Parcel 2 of COS 21586 (Assessor's Tracts 2C)
(Lot/Block of Subdivision or Tract #)

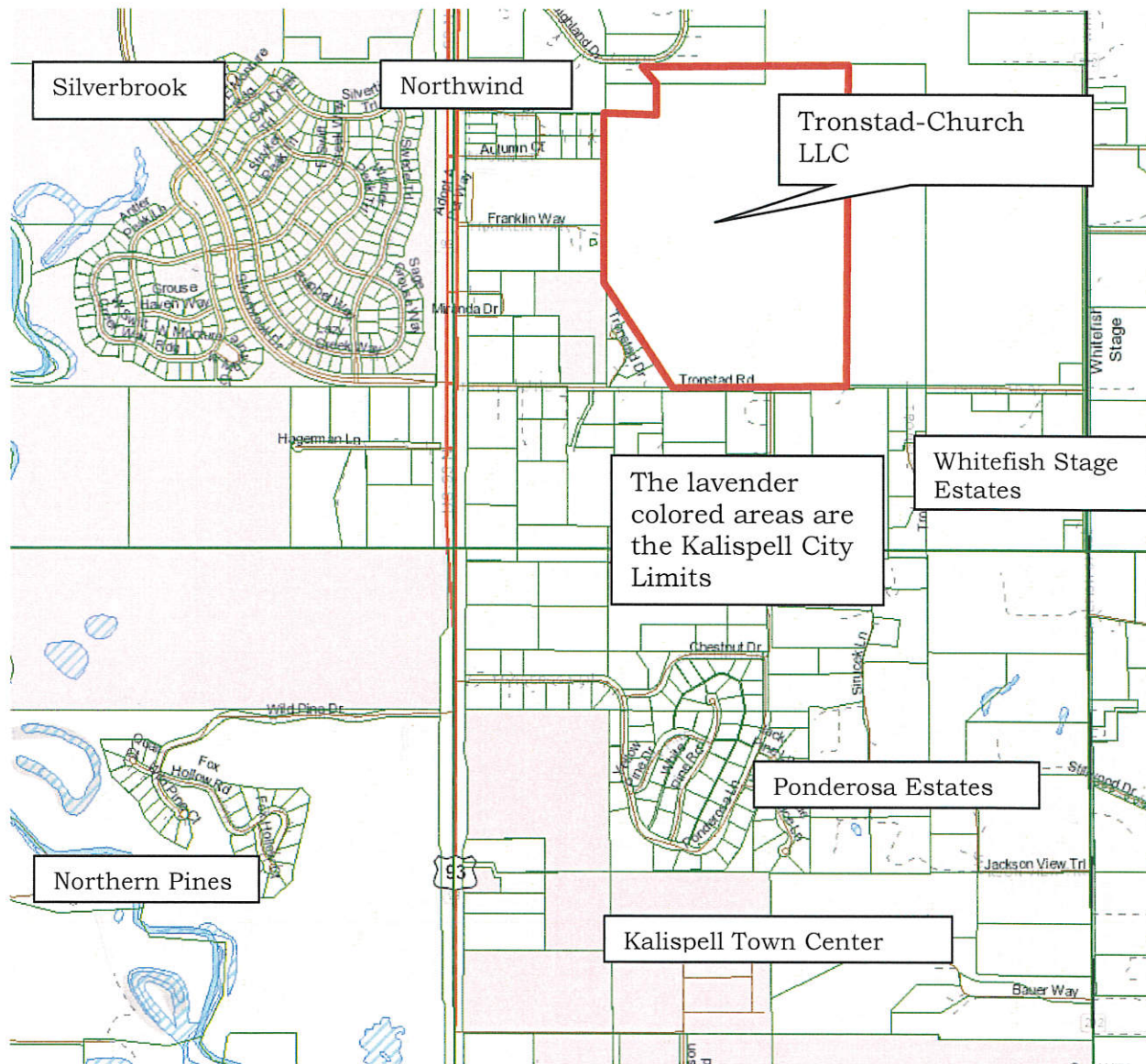
18 - T29N - R21W
Section Township Range

(Attach sheet for metes and bounds)

- C. Total acreage: 110.68 acres.
- D. Zoning District: Highway 93 North Zoning District
- E. The present zoning of the above property is: SAG-5 (Suburban Agricultural).
- F. The proposed zoning of the above property is: R-2.5 (Rural Residential)
- G. State the changed or changing conditions that make the proposed amendment necessary: The owner of the property is contemplating development and this area is transitioning from agricultural to residential with the expansion of the City of Kalispell to the west with Silverbrook Estates and to the south with the

Kalispell North Town Center development around the Ford dealership. In addition, there are other rural residential projects in the immediate vicinity such as Ponderosa Pines, the Northwind Center, and the recently approved Whitefish Stage Estates.

Figure 1



Source – Flathead County GIS

THE FOLLOWING ARE THE CRITERIA BY WHICH ZONING AMENDMENTS ARE REVIEWED. PLEASE PROVIDE A RESPONSE AND DETAILED EXPLANATION FOR EACH CRITERION FOR CONSIDERATION BY THE PLANNING STAFF, PLANNING BOARD, AND COMMISSIONERS.

1. Is the proposed amendment in accordance with the Growth Policy/Neighborhood Plan?

The Rey property is located within the boundary of the Flathead County Growth Policy. The Growth Policy Map identifies the property as "Agriculture". The Flathead County Growth Policy Map is not a future land use designation map that is traditionally used with a Growth Policy but an existing land use map that generally depicts the existing zoning categories as its base. The SAG-5 (Suburban Agriculture) designation is a land use category that is consistent with and generally conforms to the "Agricultural" designation.

The Flathead County Growth Policy identifies a number of Goals and Policies that support the proposed Map Amendment.

G.2 – Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.

P.3.3 – Maintain flexibility of land use option to forest and agriculture land owners by focusing on mitigating the negative impacts of development.

G.4 – Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land use.

This part of the County is transitioning from a traditional farm use to rural and urban residential. The proposed R-2.5 acknowledges and provides for Agricultural as a permitted use.

P.4.3.- Identify a desirable gross density for rural residential development that retains land values, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc.)

The 2.5 acre density proposed with the Map Amendment is consistent with the rural residential development in the area but also provides a transition

between agricultural use and urban residential use forecasted by the City of Kalispell.

G.8 – Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.

The proposed R-2.5 will allow a density of 1 residential unit per two and a half acres and is similar to densities along Highway 93 corridor but it also transitions from the urban densities of the City and the larger Agricultural Tracts still located in the area.

2. Is the proposed amendment designed to:

- a. Secure safety from fire and other dangers? The subject property is within the West Valley Fire District. The West Valley Fire District has a Station on Whitefish Stage approximately one mile from the property. The property is not located within the Wildland Urban Interface or High Fire Priority Area. The property is not mapped with the floodplain nor is it located on steep slopes.
- b. Promote public health, public safety and the general welfare? The property has direct access to Tronstad Road along its south Boundary. Tronstad Road is a paved County road that connects with Highway 93 on the west and Whitefish Stage Road on the east. The Flathead County Sheriff's Office provides police protection and the West Valley Fire District provides fire and ambulance service to the existing and proposed residences.

The proposed R-2.5 zoning classification provides the same setback and height standards as the existing SAG-5 zone and very similar land use restrictions. The primary difference in the zoning districts is the density with the SAG-5 allowing one dwelling per five acres and the R-2.5 allowing one dwelling per 2.5 acres. The land uses are nearly identical with the exception that SAG-5 allows cluster house and Class B manufactured homes as a permitted use while the R-2.5 does not. The differences in the Conditional Use category is that the SAG-5 provides for: animal hospitals/veterinary clinics., extractive industries, kennels, recreational facilities and RV Parks which the R-2.5 does not. The

maximum density on the 110 acre site is 22 lots with the SAG-5 and 44 with the R-2.5. The proposed zoning designations will continue to promote the health, safety and general welfare of the public.

- c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements? The property has access to Tronstad Road which is paved, County maintained road. The proposed zone change will allow additional lots to be created but maximizing the density of this property would require subdivision review with traffic studies, wastewater and stormwater analysis, and public input for consideration by the Planning Board and County Commissioners.

The property is within the Kalispell School District #5 (Edgerton for Grade School; Flathead Middle School for 6-8th grades, and Glacier High School for 9-12th grades. In general, larger lots, like those proposed, require less park land than urban densities with small yard areas.

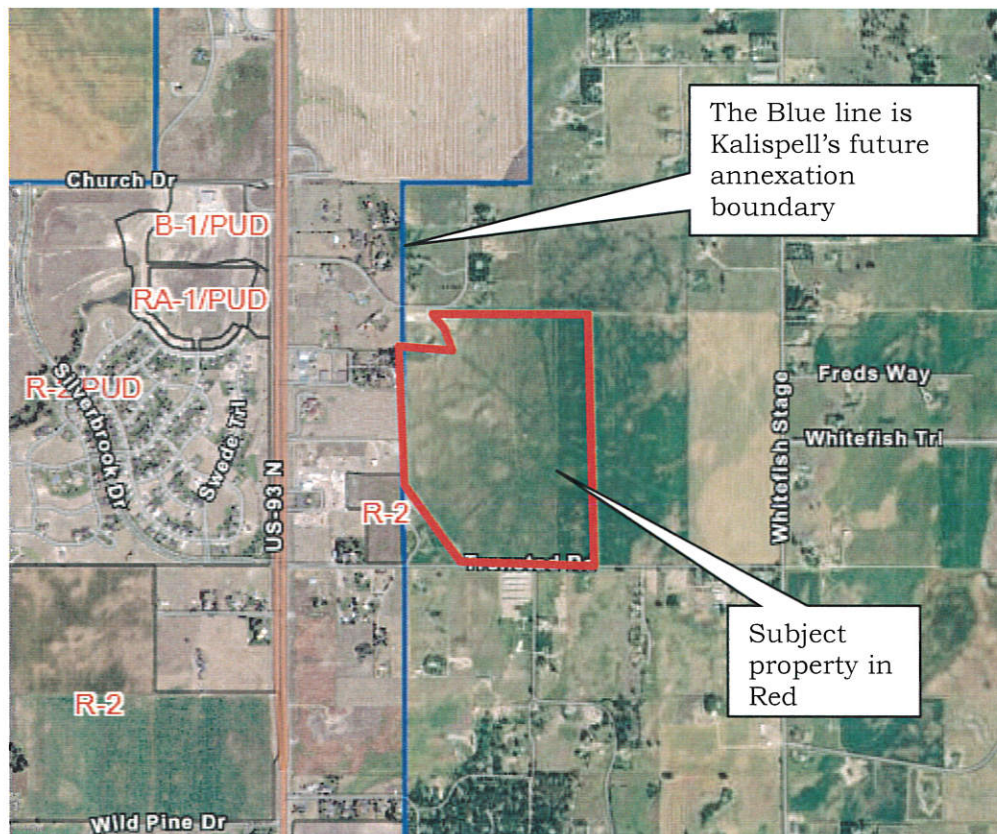
3. Does the proposed amendment consider:

- a. The reasonable provision of adequate light and air? The proposed R-2.5 zoning designation has the same lot coverage of 25% and identical setbacks to the SAG-5 zoning. The proposed zoning designation should provide adequate light and air.
- b. The effect on motorized and non-motorized transportation systems? The subject parcel has direct access to Tronstad Road which is a paved County Road located within a 60-foot road right-of-way. Projected effects to the County Road would be dependent on the subdivision design and a traffic study. However, Tronstad functions like a collector road connecting Highway 93 with Whitefish Stage Road. As with Church Drive to the north and Rose Crossing to the south Tronstad is intended to carry larger traffic volumes in the future. No public bike or pedestrian trails are located near the subject property and the road shoulders are either narrow or non-existent.
- c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities? The subject

property is located nearly adjacent to the City Limits of Kalispell. However, Kalispell's Annexation Map does not include the subject property (Figure 2). Kalispell has no plans to annex this area or provide services such as water, sewer, or road maintenance. The Rural Residential zoning classification proposed on this property is compatible with the rural nature of the neighborhood and the neighboring Rural and Suburban Agricultural zoning.

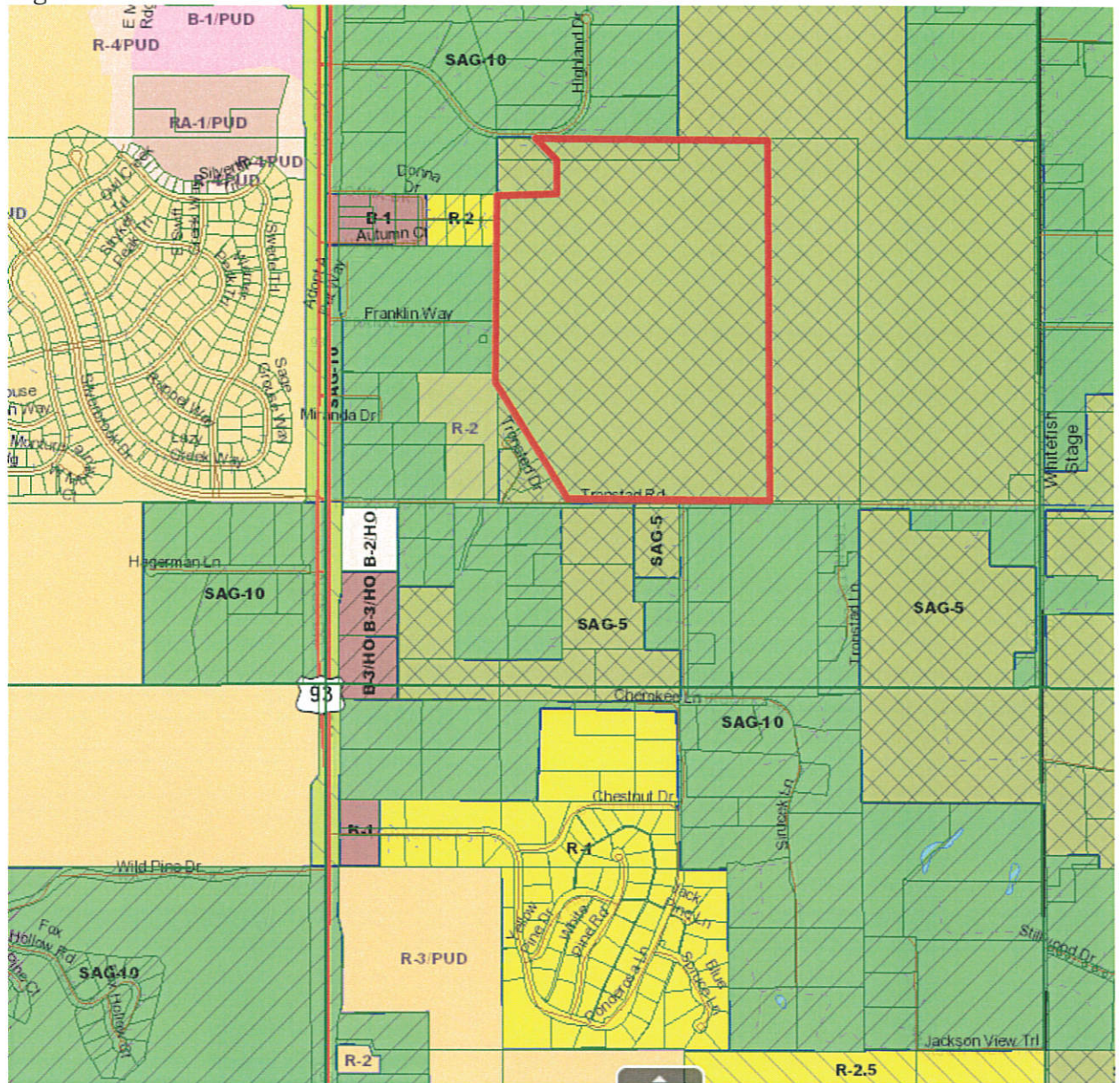
- d. The character of the district and its peculiar suitability for particular uses? The subject parcel abuts SAG-5, SAG-10, and R-2 zoning. Within a quarter mile of the property there is also R-1, B-1, B-2(HO), B-3(HO) zoning. Also, within a quarter mile there is City of Kalispell B-1, RA-1 (PUD), R-2 (PUD), and R-2 zoning all of which are urban densities (Figure 1 and 3).

Figure 2



Source – City of Kalispell Interactive Map

Figure 3



Flathead county GIS

Considering the provisions of Spot Zoning and the “Three Part Test” as provided by legal precedent in Little vs. Board of County Commissioners. Spot Zoning is determined by the Court to be an illegal action if the request is found to meet **all** three of the tests. The three tests are as follows:

- i. *The zoning allows a use that differs significantly from the prevailing use in the area.*

The proposed R-2.5 zoning classification provide the same setback, lot coverage and height standards as the existing SAG-5 zone. The permitted and conditionally permitted uses are almost identical with the exceptions being that SAG-5 allows cluster house and Class B manufactured homes as a permitted use while the R-2.5 does not. The differences in the Conditional Use category is that the SAG-5 provides for: animal hospitals/veterinary clinics., extractive industries, kennels, recreational facilities and RV Parks which the R-2.5 does not. In this transitional area some might argue that extractive industries and RV Parks are no longer compatible land uses in this area.

- ii. The zoning applies to a small area or benefits a small number of separate landowners.

The proposed zone change encompasses 110+ acres and is adjacent to a broad mosaic of zoning categories, ranging from Urban Residential to Suburban Agricultural along with a smattering of Commercial along the Highway. The subject parcel is a large tract in comparison to neighboring properties and the proposed zoning is defined as a transitional zoning designation in the Zoning Ordinance Chapter 3.09.010.

- iii. The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and this is in the nature of special legislation.

The proposed zone change is for a single landowner however the proposed R-2.5 and the existing SAG-5 zoning are nearly identical except for the density. In an area with such a diversity of densities one would be hard pressed to say the proposed density is out of place.

As presented the proposed zone change application does not meet the three tests for “spot zoning” and therefore should be considered a legal request.

- e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area? The permitted and

conditionally permitted uses of the proposed zoning designation of R-2.5 are nearly identical to that of the existing SAG-5 zoning classification. The proposed R-2.5 with a density of one dwelling unit per 2.5 acres transitions neighboring densities that ranges for high density multi-family (RA-1 PUD) in the City Limits of Kalispell which allows 20 dwelling units per acre to SAG-10 zone which allows one dwelling per ten acres.

4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?

The City Limits of Kalispell just touches the western edge of the subject property (Figure 1) and that property is zoned R-2 which is residential allowing four units per acre utilizing public sewer and water services. The proposed zoning of R-2.5 allows one dwelling per 2.5 acres.

The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.

Donald B. Donald Wm.
Owner/Applicant Signature(s)

10-20-20
Date

APPLICATION PROCESS

APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A pre-application meeting is highly recommended. This can be scheduled at no cost by contacting the Planning & Zoning office. Among topics to be discussed are: Master Plan compatibility with the application, compatibility of the proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application.

C. Application fee.

D. The application must be accepted as complete by the Flathead County Planning & Zoning staff prior to the date of the planning board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled.

APPLICABLE TO APPLICATIONS FOR ZONE CHANGE:

A. Application Contents:

1. Completed Zone Change application, including signatures of all property owners applying for zoning map amendment.

IF this is a **MAP** amendment the following are also required:

- i) A map showing the location and boundaries of the property (*vicinity map*).
- ii) A Title Report of the subject property
- iii) **Certified** Adjoining Property Owners List must be submitted with the application (*see forms below*). The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.

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